



U.S. DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES
Suite 700-1111 20th Street, N.W.
Washington, D.C. 20036

In the Matter of

ELIZABETH BROOKINS

v.

Case No. 82-WPA-31
82-CET-137

GADSDEN JOB SERVICE OFFICE,
ALABAMA

ORDER

On February 23, 1982 Elizabeth Brookins filed a request for hearing based on the February 1, 1982 determination of the Atlanta Regional Director, Office of Civil Rights, U.S. Department of Labor. The case was opened under the docket number 82-CET-137. It has since been brought to the attention of this Office that this matter is not a CETA complaint, but rather a request for hearing brought pursuant to the Job Service regulations at 20 C.F.R. §658.421 (Wagner Peyser).

On May 3, 1982 the Alabama Department of Industrial Relations filed "Defendant's Motion to Dismiss or in the Alternative to Stay," stating that Elizabeth Brookins has filed an identical action in the United States District Court for the Northern District of Alabama, Middle Division; that defendant's motion to dismiss and motion for stay in that court were both denied; and that to allow plaintiff to simultaneously pursue her action in both courts is a waste of judicial resources and raises the possibility of conflicting judgments. (See attachment) By letter filed May 17, 1982 counsel for Elizabeth Brookins stated that his client did not object to a stay.

Accordingly, for good cause shown it is ORDERED that this matter be dismissed without prejudice pending completion of the federal court action. Complainant Brookins is afforded ten (10) days from entry of a final order in that action in which to file a request for hearing again with the Office of Administrative Law Judges.

It is further ORDERED that the docket number be changed from 82-CET-137 to 82-WPA-31. The parties are directed to refer to this case by the latter docket in all future filings with this Office.

EVERETTE E. THOMAS
Deputy Chief Judge

Dated: 28 JUN 1982
Washington, D.C.

EET:LLB:jeh

IN THE MATTER OF
ELIZABETH BROOKINS,
Plaintiff,

BEFORE THE ADMINISTRATIVE
LAW JUDGE

vs.

GADSDEN JOB SERVICE
OFFICE, ALABAMA
Defendant

CASE NO. 82-CET-137

DEFENDANT'S MOTION TO DISMISS OR IN THE
ALTERNATIVE TO STAY

Comes now the defendant in the above-styled cause and moves the Court to dismiss or in the alternative to stay the proceeding. As grounds, therefore, defendant shows the Court as follows:

1. Plaintiff in the above-styled action has filed an identical action for the Northern District of Alabama, Middle Division in the United States District Court (Civil Action Number CV-81-M-1409-M).
2. On the 21st of April, 1982, defendant filed an amended motion to dismiss in the above-mentioned federal court (see Exhibit A).
3. Defendant's motion to dismiss was heard by District Judge Haltom on April 26, 1982.
4. Judge Haltom ruled from the bench that defendant's motion to dismiss and motion for stay were both denied.
5. The plaintiff's complaint should be dismissed or this Court should stay the proceeding herein because to allow the plaintiff to simultaneously pursue her complaint in this Court and in a federal district court is a waste of judicial resources.
6. The litigation of this action in two courts raises the possibility of conflicting judgments.
7. This defendant will promptly notify the Court of the results of this action in the above-mentioned federal court.

Wherefore, the Premises Considered, the defendant requests this Court to dismiss or in the alternative to stay this action until the completion of the pending federal court proceeding.

GEORGE COCORIS
GENERAL COUNSEL

G. GUY HAYES
ASSISTANT GENERAL COUNSEL

HARRY A LYLES
ASSISTANT GENERAL COUNSEL

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Defendant's Motion to Dismiss or in the Alternative to Stay on Honorable Jeff Sacher, Legal Services Corporation of Alabama, 802 Chestnut Street, Gadsden, AL 35901; and upon Honorable Abigail Turner, Legal Services Corporation of Alabama, Post Office Box 2963, Mobile, AL 36601; by placing copies of the same in the United States Mail, postage prepaid.

This the 27 th day of April, 1982.

Harry A. Lyles
Attorney for Defendant